

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6587 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SHREE UDYOG KAMDAR COOP HSG SOC LTD

Versus

HEIRS OF VADILAL SANKALCHAND

Appearance:

MR SHIRISH JOSHI for Petitioners

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 08/08/96

ORAL JUDGEMENT

1. This Special Civil Application under Article 226 and 227 of the Constitution of India is by Shree Udhog Kamdar Cooperative Housing Society challenging the order of the Gujarat State Cooperative Tribunal dated 28.01.1986 passed in appeal No.50/85 confirming the order passed by the Board of Nominees in Lavad case No.453/74 renumbered as 36/81 dated 24.1.1985. The respondent deceased Vadilal Sankalchand filed a Lavad suit before the Board of Nominee, at Ahmedabad for possession of one

block in the society and also for damages against the society for not allotting block to him. The Board of Nominees held that the allotment made in the meeting dated 21st August 1974 was not in accordance with the law and therefore, null and void. In view of the findings, the Board of Nominees held that the plaintiff was entitled to one of the flats being No.31-B in possession of Maneklal Mohanlal Bhatt and flat No.41-B in possession of Jayantilal Durgashanker Shukla. The society was also directed to pay Rs 100/- per month to the plaintiff respondents from the date of allotment till the actual possession of the flat from the petitioner Nos.2 and 3 i.e. Maneklal Mohanlal and Jayantilal Durgashanker. The petitioner society and the members of the society filed an appeal before the Gujarat State Cooperative Tribunal which the Tribunal, by its judgment dated 28th January 1986, dismissed with costs.

3. I have heard the learned counsel for the petitioner and the learned counsel appearing for the respondents. It is not in dispute that the members of the society, against whom also the decree was passed, have not challenged the order of the Tribunal and as such, the decree passed by the Board of Nominees has become final as against them. I have read the judgment of the Tribunal as well as the Board of Nominees with the assistance of the learned counsel for the parties. In view of the concurrent finding of facts, there is no scope of interference by this Court.

4. In view of this, there is no merits in this Special Civil Application and the same is accordingly rejected. Interim relief vacated. Rule discharged.

parmar*